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11 as Receiver for PROSPERO VENTURES, L.P.

12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

15 U.S. SMALL BUSINESS  
16 ADMINISTRATION, as Receiver for  
PROSPERO VENTURES, L.P.,

17 Plaintiff,

18 v.

19 DONALD K. EMERY,

NO. C 07-03741 VRW

**Related Cases:**

C 07-03732, C 07-03733, C 07-03735,  
C 07-03736, C 07-03737, C 07-03738,  
C 07-03739, C 07-03740

**[PROPOSED] JUDGMENT AND  
ORDER**

**[Filed concurrently with Notice Motion,  
Memorandum of Points, and Request  
to Take Judicial Notice]**

Date: May 8, 2008  
Time: 2:30 p.m.  
Courtroom 6, 17<sup>th</sup> Floor

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24 On May 8, 2008, this Court heard the arguments of Plaintiff, U.S. SMALL BUSINESS  
25 ADMINISTRATION, as Receiver for PROSPERO VENTURES, L.P., and Defendant, Donald  
26 K. Emery, on the motion to strike the affirmative defenses.

27 Having read and considered the moving papers of the parties and hearing the arguments  
28 presented regarding the same, this Court shall exercise its discretion and strike each of the eight

1 affirmative defenses.

2 Good cause appearing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that  
3 the affirmative defenses set forth are ordered stricken from the pleadings.

4 Dated: \_\_\_\_\_

5  
6 UNITED STATES DISTRICT JUDGE  
7 HON. VAUGHN R. WALKER  
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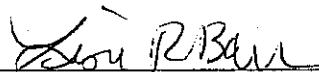
### PROOF OF SERVICE

I declare that I am a citizen of the United States of America and a resident of the County of Fresno. I am over the age of eighteen (18) years and not a party to the within action. My business address is 499 West Shaw, Suite 116, Fresno, California 93704.

On April 3, 2008, I served the foregoing document(s) described as **[PROPOSED] JUDGMENT AND ORDER [Filed concurrently with Notice Motion, Memorandum of Points, and Request to Take Judicial Notice]** on the interested parties, addressed as stated on the attached service list.

- ☒ BY MAIL - by placing ☒ a true and correct copy ☐ the original thereof enclosed in a sealed envelope with postage thereon fully prepaid in the firm's outgoing mail. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. It is deposited with United States Postal Service on that same day in the ordinary course of business.
- ☒ BY CALIFORNIA OVERNIGHT - by placing ☒ a true and correct copy ☐ the original thereof enclosed in a sealed envelope for delivery via California Overnight next day delivery to the addressee noted above.
- ☐ BY HAND DELIVERY - by delivering by hand and leaving a true copy with the person and at the address shown above.
- ☐ BY FACSIMILE TRANSMISSION - by causing a true facsimile thereof to be electronically transmitted to the parties, by using their facsimile number indicated on the attached service list.
- ☐ STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☒ FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Executed on April 3, 2008, at Fresno, California.

  
\_\_\_\_\_  
Lisa R. Barr

**Service List**

**Via Mail and Electronic Mail:**

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Attorneys for Defendants

**Via California Overnight:**

**Chambers Copies**

Hon. Hon. Vaughn R. Walker  
U.S. District Court, Northern District  
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17<sup>th</sup> Floor, Court Room 6  
San Francisco, CA 94102